

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PHILIP C. BROWN,
Plaintiff

v.

HARRISBURG POLICE
DEPARTMENT, et al.,
Defendants

CIVIL ACTION NO. 1:05-CV-2407

(Judge Kane)

FILED
HARRISBURG, PA

MAY 8 2006

MARY E. D'ANDREA, CLERK
Per 

ORDER

Before the Court are Magistrate Judge Smyser's Report and Recommendation (Doc. No. 15) and Plaintiff's response thereto (Doc. No. 17). Upon a de novo review of the record – in particular Plaintiff's seventeen count amended complaint, Defendants' motion to dismiss, and Plaintiff's brief in opposition thereto – the Court agrees with Magistrate Judge Smyser that Plaintiff's complaint fails to allege any federal claims upon which relief can be granted. Accordingly, the Court will dismiss those claims stated in the complaint under federal law pursuant to Federal Rule of Civil Procedure 12(b)(6).

Having dismissed all federal claims, the Court will decline to exercise supplemental jurisdiction over the remaining state law claims. 28 U.S.C. § 1367(c)(3). The applicable factors of fairness, convenience, comity, forum shopping, and judicial economy weigh in favor of remanding the case back to the Dauphin County Court of Common Pleas. Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 357 (1988). Accordingly, this 8th day of May, 2006, the Court hereby **ADOPTS** Magistrate Judge Smyser's Report and Recommendation. Defendants' Motion to Dismiss is **GRANTED** in part as follows:

I. Counts I, V, and XVI of Plaintiff's complaint are

DISMISSED.

2. Plaintiff's objections are overruled.
3. The Clerk of Court is directed to remand the remaining claims to the Prothonotary of the Dauphin County Court of Common Pleas and to close the file.
4. In all other respects, Defendants' motion is **DENIED**.

S/ Yvette Kane
Yvette Kane
United States District Judge